

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, April 12, 2010

6:00 WORKSHOP re: changes to Zoning Ordinance § 402.3, 402.4 and 402.5 (chickens) and to add § 402.6 (deer feeding).

7:00 p.m. – CALL TO ORDER: Chairman Copp, Councilors Turner, Perfetti, Storey-King, Stiles and Moriarty. Councilor Porter arrived at 7:30 p.m.

I. APPROVAL OF MINUTES

March 22, 2010

Motion by Councilor Stiles and seconded by Councilor Perfetti to approve the minutes with a spelling correction.

VOTE: UNANIMOUS PASSAGE 5-1 (Councilor Porter out and Councilor Turner abstaining)

II. MANAGER'S REPORT

- Cumberland/North Yarmouth Youth Lacrosse Spring Events at Twin Brook (2 events, expecting over 500 people)

The Town Manager requested the council to add two Mass Gathering Permit applications to the next council agenda and move this evening to set a public hearing for April 26.

- Val Halla opening day, April 7th Opened on Wednesday, April 7

It was a “huge opening day.” The weather has cooperated nicely.

- Cumberland Farmer's Market begins on May 1st, 8:30 a.m. – 12:30 p.m. @ Mabel I. Wilson School

The Farmer's Market will begin for the season in on May 1, from 8:30 am – 12:30 pm at its new location at Mabel Wilson School. Extended hours will also begin on May 1st at the town's compost pad facility. To date, the town has collected over \$12,500 in donations from 134 families for the Veterans Monument which will be dedicated on Memorial Day. 134 families have contributed thus far. The CMBA will hold its first quarterly meeting on April 29th. Over 90 attendees attended the CMBA kick-off meeting at Val Halla. This follow-up meeting will begin the “growth of businesses in our community.”

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

10 – 035 To appoint Brian Bickford as Director of Community Education and Recreation.

Town Manager Shane joked that he expected Val Halla opposition “in jest” to this appointment. Brian Bickford is “A class act that I am proud to work with side by side.” Dick Campbell and Heather Giandrea, and John Stroud served on the selection committee with the Human Resources Director. Dick Campbell spoke on behalf of the committee sharing that a two and one-half hour interview was held with Brian, and it was “a joy.” Speaking to Bill Landis' departure, Mr. Campbell noted, “You don't replace the man who has defined the position” but, “You work to find an individual” who will grow the position. The interview “was a wonderful conversation. I learned a lot about” Val Halla and Brian Bickford. Brian has increased the Junior Golf and Women's Golf programs in Val Halla. “His

vision and commitment to the community is second to none.” A noteworthy bonus is the accompanying \$15,000 in position savings with this appointment as well. Mr. Campbell heard from a number of community members who expressed their pleasure with Brian’s selection. “I think that speaks to Brian and what he is going to bring to the position. He is an overachiever. It’s my pleasure to tell you we have a wonderful nominee who is heavily supported throughout the community.” Ms. Giandrea will introduce Brian at the next North Yarmouth selectmen’s meeting as well. No public comments.

Councilor Moriarty moved and Councilor Stiles seconded the appointment of Brian Bickford as Director of Community Education and Recreation.

VOTE: UNANIMOUS PASSAGE 6-0 (Councilor Porter out)

10 – 036 To hold a Public Hearing to consider and act on a Mass Gathering Permit and Victualer’s Licenses for the Cumberland Farmers Club for Maine’s Ultimate Spring Yard Sale to be held at the Cumberland Fairgrounds on Saturday, June 12, 2010 from 9:00 a.m. to 2:00 p.m.

Farmers Club representatives Bruce Flanigan and Don Doyle and Nassau Broadcasting event sponsor, Patrick Collins, were present to respond to questions. Mr. Flanigan explained the club is “excited” about this new event. The town clerk conducted a meeting between Mr. Collins and the town’s public safety officials to review the requirements of the Mass Gathering Ordinance. The organizers anticipate between 10-15,000 attendees. “I think this will be a pretty big event and we’re pretty excited about it.”

In response to her question, Councilor Storey-King was informed that the rain date was moved from Sunday June 13 to Saturday June 19. Councilor Stiles asked about the parking plan, and Mr. Flanigan stated the parking area will be within the Gate One area and the parking schematic will be handled as it has for past large events. No public comments.

Councilor Stiles moved and Councilor Moriarty seconded to approve the Victualer’s Licenses and Mass Gathering Permit for the Cumberland Farmers Club for Maine’s Ultimate Spring Yard Sale to be held at the Cumberland Fairgrounds on Saturday, June 12, 2010 from 9:00 a.m. to 2:00 p.m., with a rain date of June 19 at the same time.

VOTE: UNANIMOUS PASSAGE 6-0 (Councilor Porter out)

10 – 037 To hold a Public Hearing to consider and act on amendments to the fee ordinance to add a \$10.00 all day pass to the Brush/Compost Facility effective immediately, and to increase small trash bag fees from \$1.00 to \$1.50 and large trash bag fees from \$1.50 to \$2.50, effective June 1, 2010.

The Town Manager explained this issue was discussed during the finance committee budget process. The newly proposed \$10 “All Day” pass allows a resident to use the facility for one day at one cost and is meant to assist those residents who tend to use the facility only a couple of times per year or who wish to bring yard brush throughout one day in several trips.

Ms. Yavinsky raised her previously stated remarks regarding reducing personnel costs spent updating signage throughout town to make “extra hours available” to cover the Saturday hours spent by town personnel at the compost facility. Councilor Moriarty expressed his belief that the informational signs are “useful, helpful” and keep residents informed. “The amount of time is minimal” and would not likely reduce labor hours. Ms. Yavinsky replied, “I certainly don’t support the abolition of the signs.” But does support reducing the signage program to offset the personnel costs associated with the brush dump. Councilor Perfetti added, “I’m comfortable with the way this area of the town is managed and

run” and requested the conversation return to the issue of trash bag fees. “I’m confident that we’re in line with surrounding communities;” however, he recommended a fee increase to \$2.00 for the 33

gallon bag and \$1.50 for the 20 gallon bag. Councilor Stiles felt the trash bag costs of other communities makes our proposal “in line” with those communities. He also supported a \$10 Day Pass as reasonable, noting that it also prevents the \$5 per load cost. Councilor Moriarty received confirmation that the daily pass and annual fees are remaining at their current costs.

Motion by Councilor Stiles and seconded by Councilor Turner to amend the Cumberland Fee Ordinance to add a \$10.00 all day pass to the Brush/Compost Facility effective immediately, and to increase small trash bag fees from \$1.00 to \$1.50 and large trash bags from \$1.50 to \$2.50, effective June 1, 2010.

VOTE: PASSAGE 5-1 (Councilor Perfetti opposed and Councilor Porter out)

10 – 038 To authorize a bond in the amount of \$4,100,000.00 for the Route 88 reconstruction, drainage, and pedestrian safety improvement project.

The Manager reported the project cost has been reduced to \$4.1 million. The bid’s “base price” is \$3.1 million and alternates are as follows: Alternate 1 – finish paving \$237,015; Alternate 2 – Tuttle to bridge paving \$186,917; Alternate 3 – Tuttle surface paving \$12,905; Alternate 4 – tree box filtration \$18,336; Alternate 5 – asphalt membrane \$194,375; and Alternate 6 – gate boxes \$6,500, for a total of \$3,791,934.90. Storey Brothers provided the lowest bid at \$3.79 million. An additional construction administration and inspection fee of \$95,000 is needed, as well as a 25% paving and 10% construction contingency equaling \$262,480. These components bring the total project cost to \$4,149,414.90. The highest alternate expense is the asphalt membrane at nearly \$195,000. The Manager explained this alternate is designed to “bridge the cracks to prevent further cracking” and covers an area of seven miles; however, he feels this amount may not be necessary. He therefore recommended a bid and bond amount of \$4.1 million dollars.

Ms. Yavinsky asked about the unspent contingency funds. The Manager replied it comes back to the town council who can authorize additional paving in the project area or apply it to the bond payment in the next fiscal year. Councilor Moriarty also noted that the project area refers only to the streets designated in the ballot question. Councilor Moriarty asked what impact this lesser bid figure will this have on the recently adopted FY ’11 budget. The budget will be reduced by another approximate \$30-35K. The exact number will be known when the bond is opened. The Town Manager will come before the council in June prior to setting the mil rate. “Right now we’re at zero.” Councilor Porter arrived at 7:30 p.m.

Motion by Councilor Turner “with great pleasure” and seconded by Councilor Storey-King to adopt the order below (which was read aloud for the record by Councilor Turner).

VOTE: UNANIMOUS PASSAGE 7-0

**TOWN OF CUMBERLAND
SUPPLEMENTAL ORDERS OF TOWN COUNCIL**

WHEREAS, the Town Council on December 14, 2009 authorized the issuance of General Obligation Bonds of the Town to finance the costs of improvements to Route 88, including paving and repaving and improvements to drainage (the “Project”); and

WHEREAS, the Town and the Maine Municipal Bond Bank want to ensure that the Bonds may be issued as tax exempt Bonds and/or Build America Bonds and/or Recovery Zone Economic Development Bonds or a combination thereof in order to obtain more favorable interest rates;

NOW, THEREFORE, be it voted and resolved by the Town Council of the Town as follows:

ORDERED: That the Town is authorized to issue all or any portion of any of the Bonds authorized by the December 14, 2009 Bond Orders as taxable governmental bonds, in accordance with the applicable requirements for Build America Bonds and/or for Recovery Zone Economic Development

Bonds, if applicable, if the Chair of the Town Council and Treasurer determine, in consultation with the Maine Municipal Bond Bank, that issuing such Bonds as taxable Build America Bonds or as taxable Recovery Zone Economic Development Bonds will result in a lower cost of funds to the Town, such determination to be conclusively evidenced by the execution of the Bonds by the Chair of the Town Council and the Treasurer, designating the same as "Build America Bonds" or as "Recovery Zone Economic Development Bonds", as applicable. "Build America Bonds" mean Bonds issued as governmental bonds or notes bearing interest that is taxable for federal income tax purposes but with Federal subsidies in the form of either tax credits to holders or refundable tax credits payable to the Town as issuer, authorized under the American Recovery and Reinvestment Act of 2009, and Section 54AA of the Code, and any amendments of or successor provision to the foregoing. "Recovery Zone Economic Development Bonds" mean Bonds issued as governmental bonds or notes bearing interest that is taxable for federal income tax purposes but with Federal subsidies in the form of either tax credits to holders or refundable tax credits payable to the Town as issuer, authorized under the American Recovery and Reinvestment Act of 2009, and Sections 54AA and 1400U-2 of the Code, and any amendments of or successor provision to the foregoing. The Town Treasurer and the Chair of the Town Council are authorized to determine the form(s), terms, provisions and details of the Bonds, including: (a) the terms for any redemption of such Build America Bonds or Recovery Zone Economic Development Bonds prior to maturity; (b) the terms for any investment of up to 10% of the Bond proceeds in a debt service reserve fund; and (c) the decision whether to issue and sell to the Maine Municipal Bond Bank, one or more Bonds, in any combination of tax exempt Bonds, taxable Build America Bonds, and/or taxable Recovery Zone Economic Development Bonds, in the aggregate principal amount of the loan, or to allocate and designate one or more of the Bonds, in whole or partial maturities, in varying principal amounts, as any of tax exempt Bonds, Build America Bonds and/or Recovery Zone Economic Development Bonds; and

The Treasurer and the Chair of the Town Council are further authorized: (a) to take such actions as may be required under applicable Federal law to cause such Bonds to qualify for treatment as Build America Bonds or Recovery Zone Economic Development Bonds, as applicable, (b) to designate all or a portion of the Bonds as Build America Bonds or Recovery Zone Economic Development Bonds, as applicable, (c) to obtain refundable tax credit payments and (d) to assign such refundable tax credit payments to the Maine Municipal Bond Bank.

10 – 039 To authorize the award of bid to Storey Brothers, Inc. of Cumberland, Maine for the Route 88 reconstruction, drainage, and pedestrian safety improvement project.

The Town Manager explained that Gorrill-Palmer Consulting Engineers have reviewed the bids received on March 26, 2010 and recommend the project be awarded to Storey Brothers of Cumberland, Maine. He thanked Tom Gorrill and Al Palmer for their diligent work on this project. They led us "through a difficult and arduous process." The Manager also took time to extend thanks to contractor Ben Grover for his assistance to the town in the past and his outstanding work quality. He believes Mr. Grover's work "has created a competitive environment" and produced favorable bid results for the town. The Manager expressed his confidence that the town will receive quality work and outstanding effort from Storey Bros.

No public comment.

Councilor Porter is "one hundred percent supportive of this. I just hope we're bonding enough money" to which Councilor Stiles responded "If something unforeseen should happen" the council is authorized to go to \$4.5 million, meaning we could request additional bonding funds. Councilor Porter replied, "There's also a fee for that. If \$4.1 is going to do it, we're all very happy about that."

Councilor Stiles suggested the public should know that the bids could have come in a bit lower if the town had been able to maintain our original schedule.

Motion by Councilor Moriarty and seconded by Councilor Stiles to authorize the award of bid to Storey Brothers, Inc. of Cumberland, Maine for the Route 88 reconstruction, drainage, and

pedestrian safety improvement project. Be it Further Ordered, that the Town Manager is authorized to expend up to \$4,100,000.00 to cover construction, contingencies, and engineering /inspection.

VOTE: PASSAGE 6-1 (Councilor Storey-King abstained)

10 – 040 To authorize the Town Manager to accept delinquent taxes in the amount of \$2,333.73 and issue a quit-claim deed for property identified as Map U17/Lot 09.

The Manager explained that once a property moves to foreclosure, the Town Council must authorize the Tax Collector to accept delinquent taxes before a quitclaim deed may be issued. In this case, all delinquent taxes and fees will be paid upon council authorization.

Councilor Porter suggested the council review “how we want to handle this because this is an unimproved property. There is a delineation here.” The Murray Policy is clear. “The only piece I want to look at is raw land. I’d like us to be a little bit further up the ladder” when we are dealing with land only. The Manager explained this property owner did receive a three-month extension as provided by the Murray Policy. After the expiration of the three months, it must come before the council before the property can be returned to the owner. Councilor Storey questioned the fees and interest figures. Councilor Porter added, “If this was in the private sector, I’d own the property. From a public stand point...we need to look at it. This could be another affordable housing lot for somebody in our community.” The Manager reiterated that once the property is in foreclosure the “whole amount” must be paid “not just pieces.”

Motion by Councilor Perfetti, seconded by Councilor Turner, to authorize the Town Manager to accept delinquent taxes in the amount of \$2,333.73 and issue a quit-claim deed for property identified as Map U17/Lot 09.

VOTE: PASSAGE 6-1 (Councilor Storey opposed)

10 – 041 To set a Public Hearing date (April 26th) to consider and act on a Mass Gathering Permit for the Penobscot Valley Dog Show to be held at the Cumberland Fairgrounds from June 24 – June 27, 2010.

Motion by Councilor Turner, seconded by Councilor Perfetti, to set a Public Hearing date of April 26th to consider and act on a Mass Gathering Permit for the Penobscot Valley Dog Show to be held at the Cumberland Fairgrounds from June 24 – June 27, 2010.

VOTE: UNANIMOUS PASSAGE 7-0

10 – 042 To set a Public Hearing date (April 26th) to hear a report from the Rines Forest Committee and to consider and act on the acceptance of a Forest Management Plan for the Rines Forest.

Motion by Councilor Perfetti, seconded by Councilor Stiles, to set a Public Hearing date of April 26th to hear a report from the Rines Forest Committee and to consider and act on the acceptance of a Forest Management Plan for the Rines Forest.

VOTE: UNANIMOUS PASSAGE 7-0

10 – 043 To set a Public Hearing date (April 26th) to consider and act on sending a recommendation to the Planning Board re: amendments to Sections 402.3, 402.4, and 402.5 (chickens) and to add Section 402.6 (feeding deer) to the Cumberland Zoning Ordinance.

Chairman Copp noted this item was discussed in workshop prior to this evening's meeting.

Motion by Councilor Perfetti, seconded by Councilor Stiles, to set a Public Hearing date of April 26th to consider and act on sending a recommendation to the Planning Board re: amendments to Sections 402.3, 402.4, and 402.5 (chickens) and to add Section 402.6 to the Cumberland Zoning Ordinance.

VOTE: UNANIMOUS PASSAGE 7-0

10 – 044 To set a date (April 26th) to hear a report from the Finance Committee Chair re: FY'10 3rd quarter financials.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to set a date of April 26th to hear a report from the Finance Committee Chair re: FY '10 third quarter financials.

VOTE: UNANIMOUS PASSAGE 7-0

At this time, a motion was offered by Councilor Storey-King, and seconded by Councilor Moriarty, to set a public hearing date of April 26th to consider and act on the Mass Gathering Permit for the Boys Lacrosse Jamboree on May 8th.

VOTE: UNANIMOUS PASSAGE 7-0

Motion by Councilor Storey-King, seconded by Councilor Perfetti, to set a public hearing date of April 26th to consider and act on the Mass Gathering Permit for the Girls Youth Lacrosse Round Robin on June 5th.

VOTE: UNANIMOUS PASSAGE 7-0

V. NEW BUSINESS:

Councilor Turner – received a phone call from Bob Robinson who served town for 35 years in various town capacities – Bob offered to donate to the town his copies of annual reports from the 1960's; Bob served as the Chair of the ZBA in 1980; we are fortunate to have citizens like that; he and those like him are a tribute to the town;

Councilor Porter – council is “triple booked” with meetings on 4/29; Cumberland/NY Lions Club awarded the Citizen of the Year Award to Bill Landis earlier this evening; we were honored to make the award to Bill; he thanked Bill for all he has done for the community; we're going to miss you; Bill Landis was present and informed the council his daughter has been accepted at a school in Santa Cruz, California; they intend to “have fun in the summer in Maine” and make the trip across country in the fall.

Councilor Storey-King – asked for an update on the status of the next recipient of the Boston Cane; 700 canes were originally issued and only 100 remain in existence and Cumberland has an original;

reminder regarding the Veterans Monument; much excitement that this is happening; a contribution form is on the town website.

Chairman Copp – the brush dump is open – extended hours begin May 1st; bulky waste pick up.

Councilor Stiles - he has received a request to reduce the speed on Blackstrap to the same speed as the Falmouth portion of the road and would like this placed on a future agenda; Manager said the state traffic engineer has been contacted; Gorrill/Palmer sent a letter to Range Road residents for water testing from Idlewood to Bruce Hill Road intersection; encouraged residents to get their water quality and quantity checked to determine a baseline; asked about the master summary of permits and how it compared to last year and Manager stated tracking is almost identical to two years ago and ahead of last year.

Councilor Moriarty – the town’s informational signs remind are effective reminders for citizens; examples include informing voters of the Route 88 referendum election; they do work and are being read by a number of people; last Saturday there was a three hour training session for the second annual vernal pool inventory; 30-35 volunteers participated; each assigned a number of pools to inventory; he and his inventory partner surveyed areas yesterday and found a “genuine” pool with egg clusters in an area of Twin Brook not serviced by a trail.

Manager Shane – has tried two times to locate a Boston Cane recipient and both were very reluctant; Veterans Monument Committee has a form on the webpage now; letters have been mailed to all residents in town; extremely high radon levels have been found during the second phase two of Range Road Phase; this may be the time to seriously consider connecting to public water; Cemetery Association held annual meeting yesterday; looking to create an electronic format of all cemeteries and plots; 4/26th meeting will most likely require a workshop with Rines Forest Committee; Thomas Bennett will be here on 4/26 to present the history of Main Street.

VI. ADJOURNMENT

Motion by Councilor Storey-King and seconded by Councilor Perfetti to adjourn.

TIME: 8:27 p.m.

VOTE: UNANIMOUS PASSAGE 7-0

Respectfully submitted

Nadeen Daniels, CMC
Cumberland Town Clerk